

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY DeFRANCO,)	
Plaintiff)	
v.)	C.A. No. 04-230 Erie
)	District Judge Cohill
WILLIAM WOLFE, et. al.,)	Magistrate Judge Baxter
Defendants.)	

ORDER

Plaintiff has filed a motion for judgment by default [Document # 95] seeking judgment against Defendants for their alleged failure to file a response to Plaintiff's amended complaint on or by June 20, 2005. However, a review of the docket in this case reveals that Defendants did, in fact, file a motion to dismiss the amended complaint on June 20, 2005. As a result, Plaintiff's motion has been rendered moot.

AND NOW, this 7th day of July, 2005;

IT IS HEREBY ORDERED that Plaintiff's motion for judgment by default [Document # 95] is dismissed as moot.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/Susan Paradise Baxter

SUSAN PARADISE BAXTER
CHIEF U.S. MAGISTRATE JUDGE

cc: All parties of record